

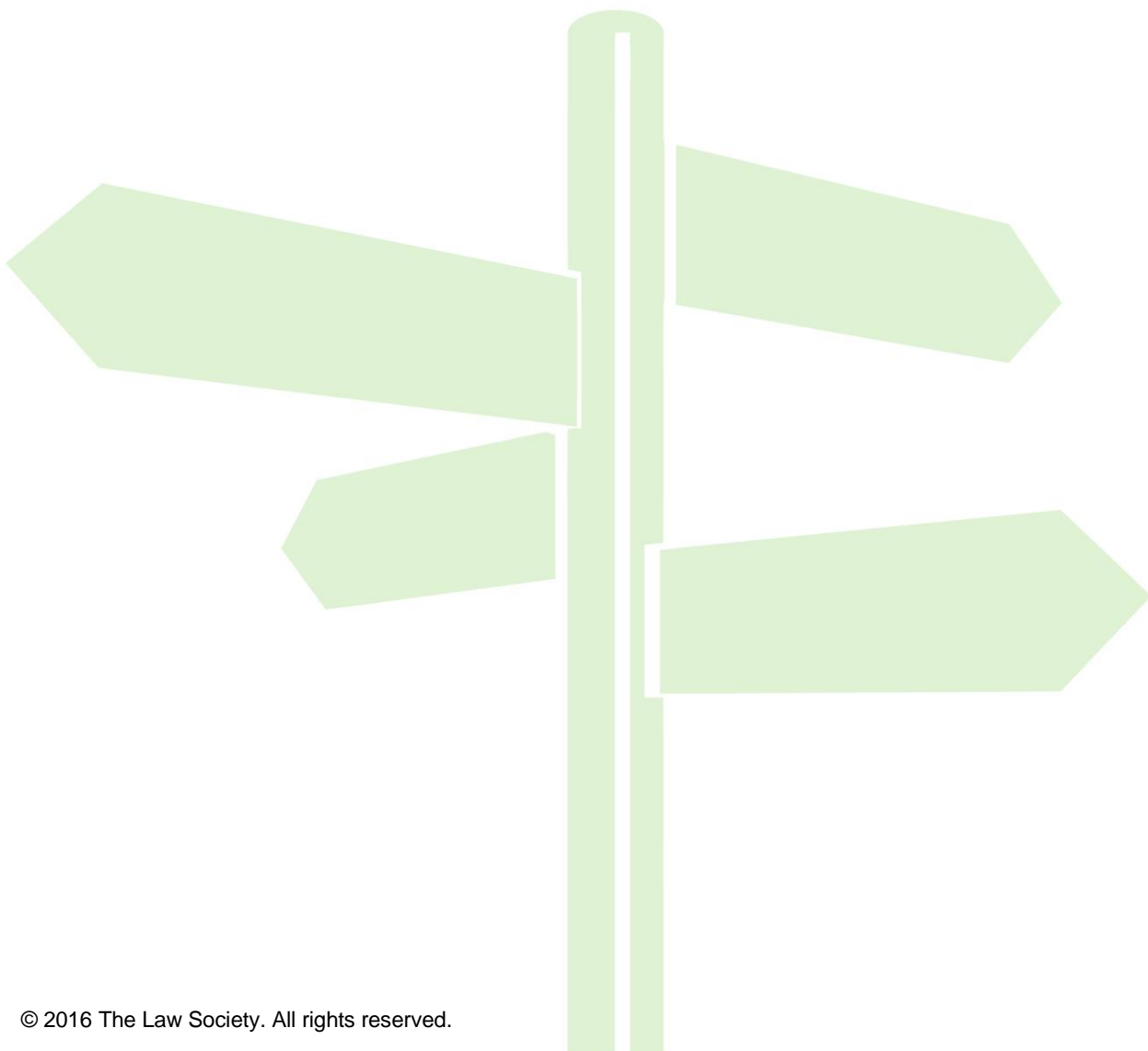


The Law Society

Fit for the future - transforming the Court and Tribunal Estate

Response of the Junior Lawyers Division

March 2018



HMCTS consultation

Fit for the future: transforming the Court and Tribunal Estate

Response of the Junior Lawyers Division

Response of the Junior Lawyers Division of the Law Society to the *HMCTS Fit for the future: transforming the Court and Tribunal Estate* consultation published in January 2018.

The Junior Lawyers Division (JLD) is a division of the Law Society of England and Wales. The JLD is one of the largest communities within the Law Society with approximately 70,000 members. Membership of the JLD is free and automatic for those within its membership group including Legal Practice Course (LPC) students, LPC graduates, trainee solicitors and solicitors one to five years qualified.

In advance of submitting this response, the JLD has had the benefit of reviewing the Law Society's response to the consultation. The JLD is in full agreement with the response of the Law Society and echoes the views therein.

The JLD provides its response to the HMCTS consultation below. Please note that the JLD does not feel it appropriate to respond to all questions on the basis that the JLD intends only to outline concerns which affect its members specifically. Additionally, it is not within the remit of the JLD to respond to area specific questions and nor does the JLD have resources to be able to do so adequately.

This consultation affects all JLD members who are the future of the profession and the advocates that will practice in the reformed justice system. It is therefore necessary for the JLD to respond to this consultation on behalf of its members.

Presently, the JLD has representatives sitting on the Professional Engagement Group's (PEGs) – groups representative of the profession, established to support court and tribunal reform. The HMCTS has established groups in four practice areas; civil, crime, employment and family. A JLD representative sits on each group. Only the civil and crime PEGs have met to date.

JLD representatives have also attended HMCTS roadshows, which predominantly considered flexible operating hours, listing and virtual hearings.

RESPONSE

The JLD understands the importance of modernising the justice system and is supportive of such plans, however, to date the JLD feels that HMCTS has taken a disorganised and disjointed approach and should focus on doing things in a logical order to avoid further delays, anxiety and a lack of trust in the Reform Programme.

The JLD welcomes the opportunity to be involved in the reform programme.

As stated, the JLD echoes the response of the Law Society to this consultation.

In addition to the comments of the Law Society regarding protected parties, the JLD is concerned that HMCTS has not fully considered the needs of users with disabilities

and other groups, such as the elderly and those with childcare issues, when proposing this benchmark (that being that nearly all users should be able to attend a hearing on time and return within a day, by public transport if necessary). The JLD also believes that the term 'nearly' is not quantifiable and that HMCTS should undertake impact assessments to be able to quantify the number of users affected in percentages.

HMCTS published the Flexible Operating Hours Pilots Prospectus in October 2017 and within its response the JLD raised concerns about travelling to/ from court for users, staff and advocates. The JLD directs HMCTS to this prospectus response.

The JLD also consulted with the Lawyers with Disabilities Division (LDD) of the Law Society whose comments were as follows:

“There have already been court closures in certain geographical areas, meaning that court users and advocates must sometimes travel long distances, so earlier start times would raise significant difficulties and impact even more on people with certain types of disabilities who have to travel long distances to reach courts. For example, where the disabled person needs help bathing and dressing and has issues with speed and slow movement in the mornings, earlier times would make this even more challenging or impossible. This might also impact on elderly court users.”

The concerns of the LDD are still live and as such the JLD repeats such concerns.

The JLD agrees with the Law Society that, at this time, HMCTS cannot meet their proposed benchmark that 'nearly' all users should be able to travel to their nearest court within one hour by public transport due to current restraints.

Following on from the HMCTS consultation paper “Proposal on the provision of court and tribunal estate in England and Wales”, published in July 2015, in February 2016 HMCTS confirmed that 86 (of the 91 courts consulted upon) were to close¹. At the time of this consultation stakeholders raised numerous concerns about travelling times to/ from court, particularly for advocates who may be required to attend more than one court in a working day for various hearings.

HMCTS must consider the impact court closures will have upon advocates who are required to attend multiple hearings at different courts in a working day. There is potential for such advocates to have further to travel and therefore be unable to undertake more than one hearing per day due to travel times between court buildings.

With regard to using external buildings the JLD asks that HMCTS provide details of the public buildings that they propose to use (above and beyond the three venues confirmed to date) to deliver court and tribunal services. A full impact assessment should be undertaken and the concerns of stakeholders should be reviewed in advance of any final decision.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/499518/national-consultation-document.pdf

To date, there have been numerous delays to the HMCTS reform programme, including the flexible hours pilot due to HMCTS having not adequately consulted with stakeholders, failing to secure an independent evaluator and undertake equality and diversity impact assessments.

It is imperative that HMCTS undertake all necessary background research and consult with stakeholders well in advance of the publication of future consultations. By doing this, HMCTS will have an understanding of what the profession, judiciary and the public expect of their justice system which should lead to more positive responses to future consultations and trust in HMCTS and the reform programme.

The HMCTS Reform Roadshows have recently concluded (Sheffield Magistrates being the final date on 08 March) yet, despite this consultation being live, it is notable that HMCTS did not seek the views of attendees to the proposals within this consultation. As mentioned within this consultation response summary, the roadshows concentrated on the Flexible Operating Hours pilot, listing and virtual hearings only. The JLD queries why HMCTS did not seek to obtain the views of attendees to this consultation, most of whom were members of the profession.

Whilst the JLD is supportive of HMCTS plans for a modernised justice system, there is widespread concern that HMCTS are effectively 'jumping the gun'. The Online Court pilot is yet to be published and the Flexible Operating Hours pilot is yet to go live. Courts are still being updated to modernise technology within the court buildings. HMCTS must secure the support of stakeholders to make the Reform Programme a success as outlined in TLS response. The JLD echoes the view of TLS that the court closure programme should be delayed until the review of the tribunal and court estate has been completed, costs analyses and pilots have been assessed, research and evaluation (including impact assessments) have been undertaken and stakeholders have been fully updated and consulted on the results of the above.

The Junior Lawyers Division
March 2018